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July 24, 2025

VIA ECF

Hon. Judge Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square, Room 2103
New York, NY 10007

MEMO ENDORSED

Re: Chakma, et al. v. Sushi Katsuei, Inc, et al.

Case No. 1:23-cv-07804-KPF

Dear Judge Failla:

This office represents Defendants in the above-referenced matter. I write to respectfully respond to Plaintiffs' letter dated July 21, 2025 (Dkt. No. 103), regarding the parties' and non-parties' production of the information and records specified in the Court's July 9, 2025 Order.

Defendants apologize to the Court for their inability to provide their Declarations by Friday, July 18, 2025. However, Defendants were able to work on their Declarations over the weekend and produced Declarations reflecting all requested information on the following Monday, July 21, 2025.

Counsel for Defendants notes to the Court that when she provided Defendants' Declarations to Plaintiffs' Counsel, she noticed that the date in Mr. Aung Ko Win's Declaration was missing. Upon confirming that Mr. Win accidentally omitted the date in his Declaration, she forwarded all of Defendants' Declarations, including the one with the missing date, to Plaintiffs' Counsel via email on July 21, 2025. She informed Plaintiffs' Counsel of Mr. Win's missing date and advised that she would supplement his fully dated and signed Declaration as soon as she received it. The next day, on July 22, 2025, Counsel for Defendants produced Mr. Win's signed and dated copy of his Declaration, along with the non-party Mr. Tun's Declaration, to Plaintiffs' Counsel. A copy of the Declarations is attached hereto as **Exhibit 1**.

Counsel respectfully requests the Court to consider that Defendants have made every effort to comply with the Court's Order, despite each Defendant working "double shifts" to earn a living and fulfill their duties as parents and family members. Additionally, both Defendants had to catch up on responsibilities they were unable to perform while participating in the Settlement Conference, which was held one day before the deadline to produce their Declarations.



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Despite their demanding work and personal schedules, Defendants made additional efforts to speak with third parties, Ms. Mya Swe and Mr. Key Tun, for them to provide their Declarations in compliance with the Court's Order. Although Defendants and/or their Counsel have no control over the third-party, Ms. Mya Swe, to obtain her call logs, Defendants informed her of the Court's Order and Defendants and/or their Counsel will produce the logs upon their and/or her possession.

Defendants respectfully request that the Court consider the unfortunate and burdensome circumstances under which Defendants were required to work day-and-night while simultaneously responding to this action and gathering the required documents and information. At no point did Defendants attempt to delay, evade, act in bad faith, or "playing games" regarding the Court's Order.

As such, Defendants respectfully ask the Court to consider their diligent efforts to comply with its Order to the best of their ability and to empathize with the difficult position they have been placed in. Given that the Declarations were produced by Monday, July 21, 2025, and that Defendants made efforts to ensure third-party compliance, to the best of their ability, as shown in Exhibit 1 and Exhibit A to Plaintiffs' letter motion, Defendants respectfully submit that sanctions are not warranted, and that an additional telephonic conference is unnecessary.

We thank the Court for its time and continued attention to this matter.

Respectfully Submitted,

Seo Law Group, PLLC

By: /s/ Diana Seo
Diana Y. Seo, Esq.
Attorneys for Defendants

cc: All counsel of record (via ECF)

The Court is in receipt of Plaintiffs' letter outlining Defendants' continued failure to abide by Court orders (Dkt. #103), and Defendants' above response (Dkt. #104).

The Court is not persuaded by Defendants attempts to justify their failure to produce the required materials. To begin, the Court understands that Defendants have competing work and family obligations. Nevertheless, as this Court has explained on a number of occasions, the proper recourse if Defendants are unable to comply with the Court's deadlines is to seek an extension. It is not for Defendants to disregard the Court's explicit instructions and comply as they see fit. Moreover, Defendants have displayed a pattern of disregard for this Court's orders and their discovery obligations more broadly.

Accordingly, Defendants are hereby ORDERED to produce any still outstanding material that was outlined in the Court's July 9, 2025 order. (Dkt. #95). Defendants are to do so on or before **August 1, 2025**. Should Defendants fail to produce all of the required materials, Plaintiffs are to inform the Court and the Court will schedule a telephonic conference.

The Clerk of Court is directed to terminate the pending motion at docket entry 103.

Dated: July 28, 2025
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE